

Photographic Exhibits

The Declaration Under 37 C.F.R. §1.132 attached hereto (the "Declaration") includes color photographs as attachments. The Examiner is requested to contact Applicant's representative to ensure that photographs have been received in a format that permits careful consideration thereof.

Rejection Under 35 U.S.C. §103

The Office Action rejects claim 1 under 35 U.S.C. §103(a) over WO 00/65937 to Prasad et al. ("Prasad") in view of U.S. Patent No. 3,480,447 to Hack et al. ("Hack"). Applicant respectfully traverses the rejection.

Claim 1 recites "[a] method for microwave cooking a raw meat or a raw marine product, the method comprising: preparing a seasoning; applying the seasoning to the raw meat or the raw marine product; and subjecting the seasoned raw meat or the seasoned raw marine product to microwave heating; wherein: the seasoning comprises a starch, a thermosetting protein, an oil component, an organic acid, and melanoidin; the oil component comprises at least one edible fat or oil; and the organic acid comprises at least one organic acid selected from the group consisting of acetic acid, citric acid, succinic acid, malic acid, lactic acid, butyric acid and tartaric acid" (emphasis added). Prasad and Hack do not disclose or suggest such a method.

As indicated above, according to the method of claim 1, a seasoning including melanoidin is applied to raw meat or fish. The Office Action concedes that Prasad does not disclose applying a seasoning including melanoidin to raw meat or fish. *See* Office Action, page 2. However, the Office Action asserts that it would have been obvious to modify the method of Prasad to include application of melanoidin to raw meat or fish in view of the teachings of Hack. Applicant respectfully disagrees.

The Office Action correctly points out that Hack discloses that heating amino acids and reducing sugars produces melanoidins. *See* Office Action, page 3; Hack, column 1, lines 29 to 35. That is, Hack discloses that melanoidins are a product of a preparation method. Claim 1 requires that melanoidin be present as a precursor in a preparation method. As with Prasad, Hack fails to disclose a method in which melanoidin is used as a precursor. There is no disclosure or suggestion in either of the cited references of applying melanoidin to raw meat or fish before heat is applied to the raw meat or fish.

Applicant does not dispute that melanoidins are known in the art. However, Applicant *does* dispute that it was known to apply such melanoidins to meat or fish and then subsequently cook the meat or fish. It is well-settled that a proposed modification or combination must be supported by a "reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (U.S. 2007). The mere fact that melanoidins are known would not have prompted a skilled artisan to apply such melanoidins to raw fish or meat and then cook the raw fish or meat to which the melanoidins have been applied. Claim 1 is a method claim, not a composition claim – the sequence of the recited method must be given due weight.

As discussed previously, because melanoidins are not used in the methods of Prasad and Hack before heating, in microwave cooking, too much time would be required to cause the Maillard reaction by reaction of constituent amino acids and reduced sugars. Accordingly, it is not possible, employing the teachings of Prasad and Hack, to complete cooking in as short a time as is possible with the method of claim 1. Furthermore, because the reaction of amino acids and reduced sugars takes place during cooking, an unpleasant odor is emitted. By contrast, when the seasoning in claim 1 is employed, heating does not initiate the Maillard reaction, but rather accelerates the Maillard reaction because melanoidins

are already present before cooking begins. *See, e.g.*, present specification, page 8, lines 4 to 15. As a result, the method of claim 1 achieves browning of ingredients in a short time.

For the reasons discussed above, a *prima facie* case of obviousness has not been made. However, even if a *prima facie* case were made, such case is rebutted by the results shown in the Declaration – "[a] *prima facie* case of obviousness ... is rebuttable by proof that the claimed compounds possess unexpectedly advantageous or superior properties." *See* MPEP §2144.09 (citing *In re Papesch*, 315 F.2d 381 (C.C.P.A. 1963)). The Declaration sets forth the results of experiments carried out by the Applicant to demonstrate that applying a seasoning as recited in claim 1 provides an unexpected effect in comparison with application of known seasonings as in Prasad. Experimentation of this type was discussed during the January 22, 2009 Personal Interview.

Applicant obtained three 60 g samples of frozen raw fish and subjected them to heating for 70 seconds in a 1 kilowatt microwave oven. *See* Declaration, paragraph 5. The first sample was unseasoned before cooking. *See* Declaration, paragraph 5; FIG. 1. The second sample was seasoned with a seasoning that did not include melanoidins (as in Prasad) before cooking. *See* Declaration, paragraph 5; FIG. 3. The third sample was seasoned with a seasoning including melanoidins (as in claim 1) before cooking. *See* Declaration, paragraph 5; FIG. 6. After cooking, the third sample (*see* FIG. 7), which was seasoned with a seasoning including melanoidins before cooking, shows dramatically improved browning in comparison with the first sample (*see* FIG. 2), which was not seasoned, and the second sample (*see* FIG. 4), which was seasoned with a seasoning that did not include melanoidins. *See* Declaration, paragraph 5, FIGS. 2, 4 and 7. These results are objective evidence of the improvements of the method of claim 1 over known methods as in Prasad, and thus these results rebut any suggestion that it would have been obvious to modify the methods of Prasad in view of the teachings of Hack.

As Prasad and Hack fail to disclose or suggest applying a seasoning including melanoidin to raw meat or fish, Prasad and Hack fail to disclose or suggest each and every feature of claim 1.

As explained, claim 1 would not have been rendered obvious by Prasad and Hack. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

For the foregoing reasons, Applicant submits that claim 1 is in condition for allowance. Prompt reconsideration and allowance are respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon



Jacob A. Doughty
Registration No. 46,671

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Attachment:

Declaration Under 37 C.F.R. §1.132 (including FIGS. 1-7)